

## CONTACT VETOS AND WHY THEY SHOULD BE ABOLISHED

WA has a Contact Veto system as part of the Adoption Act, some of which were lodged between 1995 and 2003 and are still in place today. One reason for this is because Contact Vetos contain no set expiry date or follow up procedure. The current policy states that no new Contact Vetos can be registered after 2003. So we have one policy for one era and one set of people and another policy for another era. What is good for one should be good for all, or better still, none for all. Not surprisingly this divide is just another form of discrimination stemming from the Adoption Act. Existing vetos block communication and reunion which I suppose is their main aim, but they also create a wall to vital information to all people involved in an adoption such as medical information including hereditary diseases, family history, confirmation of paternity and fail to address the true reason for lodging one. Birth fathers were deliberately left off the birth certificates and court documents for various reasons, mostly for their financial benefit it would seem. They can and do cover up unreported criminal offences, insult and threaten innocent people, cause distress to those seeking information regarding their background to which they have a right to know, deny the ability to identify important services to those who need assistance with past adoption trauma, **invade the privacy of the seeker** by requiring them to discuss the reason for contact with a social worker and by demanding them to provide a doctors certificate when looking for medical information, all the while promoting **silence and shame**, the driving force behind adoption in the first instance. The way it has been drafted breaches human rights through **discrimination** and creates inequality, they have a lack of ability to be enforced and costs tax payers money when social workers are expected to spend time policing the interaction between adults who should no longer fall under the responsibility of the "Dept of Communities/Child Welfare", which adopted people weren't once adoption was finalised anyway.

Listed below are 10 points which discuss the problems with this piece of legislation, as well as highlighting other areas, where all points highlight why this entire document should be thrown like a paper aeroplane straight into the deepest, darkest bin, wiped off the face of the Adoption Act never to be implemented again. A lot of states in Australia have abolished the Contact Veto scheme. A lot have implemented a Statement of Wishes instead. A Statement of Wishes can be good today and irrelevant tomorrow, so in my opinion, a Contact Veto system should not be swapped out for a Statement of Wishes, just faded out of existence, along with the lies and deceit of the entire adoption system itself not just here but across the entire globe.

Imagine starting off a child's life with lie number 1 among many, brainwashing them and forcing them to call complete strangers (after a waiting period to see if birth mother changes her mind, whilst staying who knows where and for who knows how long these days, switching carers again for a third or fourth time) "Mum/Dad" and expecting everyone else in the adopted family to follow the same facade - forever. Then concocting some new version of what is a once off life changing event called Birth, with a completely fabricated "new" Birth Certificate with no reference back to adoption. **Emotional abuse?** Total administrative failure perhaps? This is the Adoption Machine and it needs to be stopped, not changed out or amended. Stopped, dead in its tracks.

### **1: Discriminatory Language/Lack of detail around Methods of Contact**

**Discrimination** as defined by the Australian Human Rights Commission:

*" Discrimination happens when a person, or a group of people, is treated less favourably than another person or group because of their background or certain personal characteristics. This is known as 'direct discrimination'. "*  
(<https://humanrights.gov.au/quick-guide/12030>)

The current language of the Western Australian Contact Veto implies that any party to adoption, who is interested in making independent contact with another party to adoption, (by contact I mean, email, phone call, letter, social media, although these methods are not specified in the Veto,) is likely to engage in offensive behaviour. Refer to the sentence found written on the Veto form: "I understand that it is an offence to do any act intended or likely to harass, intimidate, embarrass or ridicule...."

The Western Australian Contact Veto affiliates the above listed, non criminal methods of contact used by most members of society, together with the listed offensive actions that in reality, may never occur. This judgemental, pre -imagined and false presumption that "intimidation, ridicule, harassment " will arise if contact is initiated outside of the department's control, is called **discrimination**.

The normal, everyday methods of communication (email, phone, letter, social media) should not be punishable by a \$10,000 fine and/or 12 months jail if initiated independently. The act of writing a once off letter, an email, a phone call, social media contact, is not behaviour that is punishable within the general population. Why are parties to adoption subject to a law dictating how they can or cannot contact another person, without the requirement of third party (Dept of Communities) intervention? Be reminded - we are not children. We don't need the state government's prison like system where our correspondence and intentions are monitored by a gatekeeper otherwise known as a third party social worker. It seems the Contact Veto is directed at the wrong person/s and is not the correct way to address and discourage slander, defamation and ridicule, especially if it is in fact coming from within the lodgers family, birth father's family or residents of their home town.

Another fact to consider is that during the years of living in an adopted family after an adoption was finalised, there was little to zero welfare checks completed by Dept of Communities. Children were left in the hands of the adopters for better or worse until the age of majority. Adopted children and adoptive parents were treated just like the rest of society during these years. So why is there suddenly this law regarding contact that comes into force when the adopted child turns adult that can be used against adopted adults, adoptive parents and biological parents? Due to the nature of closed adoption, biological families were deliberately made strangers to each other and therefore it is no different to contacting any other citizen. The Western Australian Adoption Act's Contact Veto that comes into force after the age of majority, treats the vetoed as a different class of citizen, implies they have inbuilt criminal tendencies which is highly offensive, **discriminatory** and completely without justification.

### **Suggestions:**

- ❖ After the age of majority, parties to adoption should all be subject to the same laws regarding privacy and contact that the rest of society falls under to remove any form of discrimination. Misconduct should be directed to and dealt with by the Police or a lawyer. (EG. An MRO, VRO, Cease and Desist Notice for slander/ defamation). The appropriate course of action will be directed to the offending person/s after the negative behaviour has occurred by the person who is offended. The existing Contact Veto should be **abolished** in its entirety from the current Adoption Act and no **scare tactics** such as threats of jail/fines should be made by anyone whether it be the biological mother/father, adopted adult or the state gov't department.

### **2: Lack of Valid Reason**

When lodging a Contact Veto there is no legal requirement to list a specific reason. Without having a valid reason for a Contact Veto being placed, the true issue/s experienced by the Vetoer cannot be addressed. Having a piece of legislation in place that allows one person to threaten another with jail and fines before an offence is committed is wrong and should be non enforceable. Contact via letter, phone, email is not an offence in regular society. Please stop with the **discrimination**. Also Adoption laws are "supposed" to be about the welfare of the adopted child. Not to protect biological parents from their past and not for governments to hide behind their policies and procedures. There should be no more **"Possession, Custody and Control"** ( Title of Form 2 Adoption of Children Act 1896, just one example of language used to imply adopted children are a commodity) of parties to adoption in regards to their relationships and interaction within everyday society after the age of majority. Having no space for a valid reason **discourages transparency** and becomes an empty threat.

### Suggestions:

- ❖ The underlying issues experienced by the person placing the Contact Veto, are not being addressed appropriately by both the vetoer nor the department. Instead both are opting to cover the true issues by using a "bandaid" method, an easy option, but not appropriate. The bandaid method prevents appropriate actions and services being sought to help correct personal issues relating to the adoption. By the dept offering silence as a method of coping and ignoring the true reason for the veto, the department could in fact be considered **negligent** in the case that someone requires counselling, mental health services or other more serious help such as police protection if there is domestic violence involved.
- ❖ By not requiring a reason to be given, this prevents the seeker of contact and information and the department to understand why the vetoer wants to block communication and is left with more questions causing emotional distress.
- ❖ Because there is now the Forced Adoption Hotline, I would expect this service could help the Vetoer with these types of issues, direct them through the appropriate channels and stop subjecting someone who has not done anything wrong to the threat of jail time or fines. The Forced Adoption Helpline or the department themselves, could help eliminate the need for a Contact Veto by probing into the reasons for an existing veto.
- ❖ Some reasons for placing the NCV might include: Unresolved historical sexual assault, current family unaware, trying to protect other family members involved in adoption process from imaginary threat, birth father not known or not advised, fear of contact affecting career, simply no interest in connecting, fear of defamation. None of these reasons justify threatening someone with fines and jail for initiating a conversation and need to be resolved another way either through a lawyer or police. In some instances the lodger may be afraid of "gossip, fear of being judged", or want to protect their "privacy". However no-one knows as there is no requirement for a reason to be given. There are more appropriate ways to deal with these issues which directly targets the problem. For instance - small town gossip which may lead to slander and defamation, can be dealt with by a lawyer's "Cease and Desist or Concerns Notice". The Department can direct the Vetoer to a qualified lawyer and dissolve the veto.
- ❖ It may be that the person who has lodged the veto requires counselling or another service because they may have been sexually assaulted but charges were not pursued at the time. The correct reason for the veto should be addressed and follow up services offered. The department or police should follow up on minor mothers for a statement especially in cases where the adoption went through a private agency and the issue of historical sexual assault may not have been addressed. Following up on a valid reason in these cases could then dissolve the veto and better address the true nature of the problem.

### Issue 3: Lack of Expiry

There is **no expiry date** on a Contact Veto, they just continue to tick over year by year and can run for life.

How is this even a thing? Any type of restraining order has a negative behaviour attached resulting in a valid reason and an expiry date. People change, life changes, societies expectations change. A document such as this cannot run forever. There has to be a date set where they either need to be reviewed and renewed, cancelled or just expire.

### Suggestions:

- ❖ Contact vetos can be compared to VRO's or MRO's but unlike a MRO (breaching the peace behaviour), contact vetos do not have expiry date or renewal date. MRO's on the other hand can last 1 year if time limit is not specified in order. A VRO and MRO has inappropriate behaviour attached in order to be triggered and a police, court procedure to go through. A contact veto implies any type of contact inc. letter, phone call, email, social media request by someone is inappropriate behaviour which it is NOT and should not be punishable.
- ❖ Set a date and faze them out of existence, like other states have done.

#### **4: Promotes Shame and Fear**

A Contact Veto involves and **attempts to control EVERYONE (an impossible task)** even when they aren't aware of the veto or penalties associated.

(Refer to "Point 3. Request another person to contact, attempt to contact, or attempt to arrange contact with the persons who lodged the Contact Veto")

Example: The Lodger might try and enforce the veto when a friend or relation contacts them about the adoption - not specifically on the Vetoed's behalf, but may consider they are being contacted illegally. Where are the terms and conditions of a Veto made available for public viewing so that the "another person" is made aware of these terms and conditions. Not everyone in the adoption party gets a copy of this veto and so consequences/penalties are unknown and not communicated. This is a document that runs on fear, cannot be enforced, can run to rumour and hearsay.

This document can not be enforced if the penalties, terms and conditions are not issued to EVERYONE expected to behave by these "rules". **The Vetoed is NOT responsible** for the actions of others nor for the ignorance of others in regards to the departments policies and should never be made to be.

#### **Suggestions:**

- ❖ The Contact Veto, Section 3, can make everyone in the immediate and extended family uncomfortable and frightened of developing relationship with the Vetoed for fear of passing on penalties. This document stifles the development of healthy relationships between biological relations and **promotes shame and fear**. The only shameful thing here is the current government's Contact Veto policy.
- ❖ A Contact Veto cannot blanket block the entire general public, from contacting the lodger and discussing the seeker in an attempt to resolve the past and initiate a reunion or the exchange of vital information such as medical records. What a ridiculous concept.
- ❖ How does the Lodger prove that they have been contacted by another person with a view to initiate contact if it was via phone call from family, friend, small town acquaintance usually via phone call. The "another party" can simply lie that they weren't acting on the Vetoed's behalf or lie that they were sending the Vetoed with fines and jail.
- ❖ What a total **waste of tax payers money** having the social workers in the Department of Communities field this kind of document. It is unfair to them to determine if there has been a breach in order to act further on enforcing it. The kind of matter should be dealt with via the police/lawyer in the first instance, letting Dept of Communities use their valuable time and resources in assisting children in need.

#### **5: More discrimination, myths and deceit**

Contact Vetos are still in place if they were lodged between 1995-2003. No new Contact Vetos can be lodged after 2003, but existing Vetos still remain in place. One explanation for this is because birth mothers were "promised secrecy" during the closed adoption era. The promise of secrecy is a myth, there was no such legislation. And now that myth is obsolete, especially in today's climate of social media. (Facebook, Ancestry.com, the National Archives) I would also like to add that it is an invasion the Vetoed's privacy to have to explain to a third party social worker why they want to contact our relations. Quite frankly any reason for initiating contact is none of the governments business.

#### **Suggestions:**

- ❖ Why are some Vetos still in place but no new ones can be lodged? Either everyone from any time period can lodge one or no-one can. Again this policy **promotes inequality and discrimination**. If a birth mother can lodge one, so should their son/daughter be able. Let's be fair here. The law needs to be consistent to everyone at one point in time. Either Contact Vetos are allowed to be in force by everyone or none at all. Let's make it none.

- ❖ The person who has not lodged a Contact Veto before 2003, is required to go to the police and prove misconduct if for example the lodger breaches their own Veto and initiates contact. The person without a Contact Veto may not be afforded the same level of protection/fines/jail as the person with the Veto. They may have to apply for a MRO instead which requires a court process and may only offer 1 year of protection, not indefinitely as per the Contact Veto. This is an unfair, one sided, **discriminatory**, inconsistent policy. The rules for all need to be the same regardless of what era the adoption took place.

## **6: Waste of tax payers money and resources**

When someone wishes to make contact when a Contact Veto is in place, the Dept. firstly sends an outreach letter to the Lodger. When the first outreach letter is **not answered/ignored or intercepted and falsely replied to** what happens next? How valid is a Contact Veto if the lodger does not respond to the Department's outreach letter? If the lodger is not going to play by their own game and be non responsive, should the Veto then be cancelled if there is zero attempt to contact the department regarding the letter?

### **Suggestions:**

- ❖ A second letter from the Dept. should be sent to advise due to no response the veto will be terminated.
- ❖ The person seeking information should not be requested to then write another letter to Vetoer via the Dept. of Communities. If the Dept. got no response with the first outreach letter, what makes them think it will be more successful coming from both them and the vetoed a second time? There was one chance to respond via the system that they - the Lodger wanted to implement and if the Lodger does not comply, then a notice should be sent out saying their Contact Veto is being terminated.
- ❖ The above mentioned tasks of mediation and the monitoring of correspondence between grown adults, takes up the time and resources of social workers, breaches privacy, is belittling, is a **waste of tax payers money and resources** that should be best directed at protecting vulnerable children. Leave the adults out of it, we can manage ourselves. We are not your responsibility and never were as the Department implied when they left us without welfare checks during our 18 years living with our sometimes illegal adoptive families.
- ❖ Remove the Contact Veto from the Adoption Legislation. Do not replace it with something else.

## **7: Medical Negligence/Lack of Transparency**

In the 70s adoptions still took place via private law firms such as [REDACTED] Records were not always retained or complete when sent back to the Department for safe keeping when they closed. Hence they were "lost", "burnt in fires", "destroyed", "missing". Information via the Dept. of Communities is often "redacted" (liquid paper'd out) to protect "privacy" and therefore the whole process **lacks transparency**. Birth father's names were often deliberately left off birth certificates and this in itself has a long list of follow on administrative effects, protecting him in a lot of ways. Not really surprising in this patriarchal world. A Contact Veto can and does block confirmation of paternity in cases where the birth father has been omitted from the birth cert and no one knows who he is apart from birth mother. By the birth mother placing a Contact Veto and not disclosing the identity of the birth father, this one action could block life saving medical information in cases where there are serious hereditary diseases such as cancer, heart disease, diabetes in either family. These hidden medical issues may go undetected by doctors until it is too late. By continuing to have this block to information in place, I would argue that it is medical negligence on the state governments behalf. Adoption is supposed to be about the **welfare of the adopted child**, now adult (not shaming people into thinking they need a Contact Veto) and this should include having access to both mother's and father's medical background prior to and after adoption. Doctors require family medical history for a reason. The WA Family Cancer Clinic operating out of King Edward Hospital also requires the customer having firsthand knowledge of what type of cancer each member of the family has had to be eligible for cancer screening.

### Suggestions:

- ❖ Give the lodger of the Contact Veto notice that this piece of legislation is being abolished and a time frame, so that important unanswered questions can be answered.
- ❖ Ask for the lodger if they would be willing to provide an updated medical history such as breast cancer or if they would like information in return.

### 8: Creates a community safety issue

Some birth mothers were under the age of consent. Sometimes adopters, via hearsay, were told by the lawyer, that mothers were "mature minors" and accepted this information without seeing any formal documentation. A Veto lodged with no explanation given, could lead to a safety issue for the Vetoed if they are given a birth fathers name and seek him out without full knowledge of the back story. If there is a sexual assault charge pending from decades ago, domestic violence, or history of mental illness, whatever the case is, it would be wise to tread carefully with contact and helpful to know the reasoning behind the form. The reason/statement should be written by the lodger themselves, not reworded or interpreted by a social worker into third hand information.

### Suggestions:

- ❖ In the case of a minor birth mother being involved in an adoption, there should be a copy of a police report on file or interview from the social worker or welfare document as to whether the minor and parent wanted charges pursued or not. These reports should be made available via FOI to adopted people seeking their history to ensure the minor birth mother did not consider herself to have been sexually assaulted (and was in fact deemed a "mature minor"), or her report of assault ignored or that the correct legal process had been followed and adult birth father addressed/educated/charged. As this kind of example is the entire reason some adopted people exist, their whole lives dictated by it, adopted adults should have a right to know the legalities that surround their conception and birth. Adopted people in this scenario are essentially victims too but not recognised by the system as such. If the Dept of Communities doesn't have any police records to back up an offence, then there should be a process by which they **apply for and pay for** third party criminal records on birth parents as requested via Freedom of Information. By having a record of what measures were put in place to address the sexual assault of a minor, this would prevent adopted adults knocking unknowingly on the door of a historical sex offender, potentially putting themselves in danger. The response from Dept of Communities, such as this one, "we have no police report, it might have been a loving relationship" in the case of a minor birth mother is totally unacceptable. What department does this statement come from? A complete paper trail could prevent a lawsuit against DCP for failing to fully inform the seeker that their birth father was a convicted sex offender or not.
- ❖ The current third party WA Police FOI process does not include a clause for adopted people. Once again, adopted adults are treated as class of citizen, forgotten, discriminated against, the WA Police FOI team unsure what to do with us. Again this is just another form of **discrimination** and a failure of the Administration and Freedom of Information Act.

### 9. Administration issues with other Acts

Where there is no birth father recorded on the Birth Cert, but is listed on Adoption Court document as the father/parent.

### Suggestions:

- ❖ To add a missing birth father to a Birth Cert / Death Cert, Births Deaths Marriages requires a legal DNA test against a sibling/half sibling where the birth father is deceased. **This is a problem with the Family Law Act.** How can the Family Law Act and BDM be sure that a half sibling is in fact the child of birth father just because he was married? The birth mother that listed the birth father on her court documents knows who

the father is just as much as the woman who was "married". The fact BDM requires a DNA test against the "married" partners child, when the father is already listed on a court document (regardless of how old) is offensive, discriminatory, implies our courts can't do their job, and may lead to incorrect results if the "married" woman's child is not actually her husband's ;). Dept of Communities should consider a formal DNA testing procedure in place to put missing birth father's back on Birth Certificates where they should all be. In fact both parents should always be on the birth certificate regardless of legal custody. This would make up for the government's past policies to remove birth fathers from the adoption process which is still happening today right around the world. I have encountered the outright, non apologetic exclusion of fathers in United States of America as of this year, unbelievable! Half brothers, sisters, aunts, uncles are not reliable sources of DNA matching. They too could be anyone's offspring, especially in small towns. BDM should consider other means of proof of paternity where a direct DNA test is not possible such as Ancestry.com or DNA testing against birth father's past medical samples. A sibling DNA test does NOT prove paternity. It only proves a sibling relationship. BDM should accept a deceased birth fathers name as listed on the Supreme Court Adoption Form as proof of paternity to list him back on a birth certificate regardless of whether he consented to the adoption or not.

- ❖ The named birth father may not know he has fathered a child if listed on court documents but not the birth cert. He should be followed up with a request for DNA testing and added to the birth cert regardless of whether or not he or his family want to acknowledge paternity for accurate record keeping.
- ❖ For some FOI requests, a copy of a deceased Birth Parent's death certificate needs to show the name of the child who is applying. Birth Certificates and Death Certificates should not omit names of biological children just because the Birth Parent is not the legal guardian/has lost custody. Consider listing all biological children on each Birth Parent's Death certificates, and both Birth Parents on all children's Birth Certificates adopted or not. Only have ONE birth certificate. Do not erase a parent on a Birth Cert and replace it unless there is a reference to the new parent being an "adoptive parent", "legal guardian" or better yet do what they do in the UK and simply have an "Extract of a Certificate", with no parents listed if this is what is wanted by the forms owner.
- ❖ Create an "Adoption Register" and use it. Consider stopping using the same Birth Cert template over and over, stop re-registering the one Birth Certificate, "superceding" it with a fresh one and swapping out the parents names for whoever is the suitable "guardian" at the time. Retitle the new certificate "Extract of a Cert" or "Adoption Cert", or "Certificate of ID", etc.
- ❖ Do not implement the NSW Integrated Birth Cert as this is breach of everyone's privacy. It tells the whole world that one is adopted, it highlights the birth parents names who could be complete strangers to the adopted person. I for one do not want my biological parents on any of my forms needed to make up 100 points of ID, but I do want them on what should be my ONE AND ONLY birth record.
- ❖ We need an accurate, transparent, professional system for Birth and Death records for historical reference and research . Not made up, falsified, rehashed, reregistered, lazy way of record keeping, records.

### **10: Offering silence as a solution**

Like any company or business that fails to learn from its past mistakes, leaves its issues unaddressed, the Dept of Communities is leaving itself open to prosecution. An apology is great but actions speak louder than words. And little action has been taken since the Forced Adoption Apology. After any major company project there is always a "lessons learned" session and document with follow up actions. So the current inquiry is very welcomed but only if action is taken. If sexual harassment occurred in a workplace and the harassed was offered a confidentiality clause as a solution, it would be very disappointing method of dealing with a toxic workplace. The Contact Veto is just that, a gag, issued by the business (or Dept) and taken up by the gullible, not addressing the problem and rendering the Dept open for being sued. No decent, moral company would have a piece of legislation like this that covers up incidents in the workplace, so why does our state government have something like this for the public? The shame is

on the past policies of the WA government and those around the world still implementing this system, not anyone that gets caught in the adoption machine.

**Suggestions:**

- ❖ Fix the legislation by abolishing the Contact Veto.
- ❖ Continue to consult the parties to adoption and scale up the education to the public on various issues and laws such as sexual assault, abuse and DV, what constitutes slander and defamation, victim shaming, gas lighting, and increase the awareness in school programs, TV, radio, social media if not done so already.
- ❖ Better yet eradicate adoption altogether and do not continue to repeat the same problems generation after generation, state to state, country to country.
- ❖ Encouraging all parties to adoption not to speak up by using a Contact Veto instead of reporting their concerns to the most appropriate department or service, is a massive roadblock in stopping further trauma and abuse to the next generation and beyond. We were all born with a voice and we should be using it to better the global community.